

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE ESTATE OF LORETTE JOLLES SHEFNER  
by and through its executors Mr. Barry Shefner, Ms.  
Ariela Braun, and Mr. Leon Miller,

Plaintiff,

**-against-**

MAURICE TUCHMAN, ESTI DUNOW, the  
GALERIE CAZEAU-BÉRAUDIÈRE, the  
NATIONAL GALLERY OF ART, LONTREL  
TRADING, and JOHN DOES 1-10.

X

Case No. 08 CIV 4443

## DECLARATION OF BARRY SHEFNER

X

MR. BARRY SHEFNER, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am a duly appointed Executor of the Estate of Ms. Lorette Jolles Shefner and submit this Declaration in opposition to the motion to dismiss submitted by the National Gallery of Art (the “NGA”) in the above captioned matter.

2. I make this Declaration on the basis of my own personal knowledge as to the truth of the facts asserted herein.

3. On or about June 20, 2007, the Estate contacted the NGA concerning its claim to the Painting. The NGA, through its counsel, Ms. Elizabeth Croog, called the Estate on or about June 21, 2007, leaving a voice mail and requesting a return call. I returned her call on June 22, and discussed with her the circumstances surrounding the Estate's claim and the NGA's acquisition of the Painting. During that call, Ms. Croog indicated that the NGA's provenance information for the Painting was incomplete, and she asked if I would fill the gap between my mother, Ms. Lorette Jolles Shefner, and the

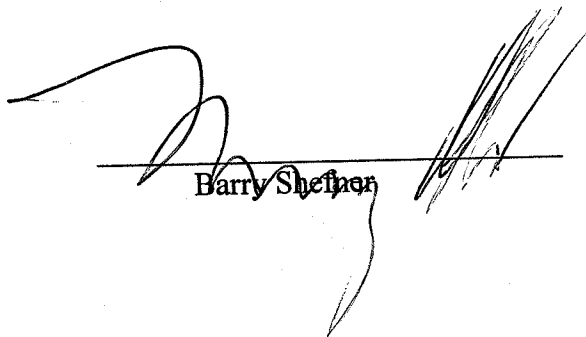
NGA. She also asked for me to identify myself as an executor for the Estate, and send her a list of the information the Estate was seeking in regard to its claim.

4. I then sent Ms. Croog a letter by fax, providing her with the information she requested and attaching a marked-up copy of the provenance page for the Painting from the Tuchman/Dunow *Catalogue Raisonné*. A true and accurate copy of that letter and the relevant *Catalogue Raisonné* page are attached hereto as Exhibit A.

5. As is clear from the mark-up and fax ID line (which indicates a French-language fax sent to a Washington, D.C. number), the *Catalogue Raisonné* page attached to Ms. Normand's moving declaration is a copy of the very page I sent to Ms. Croog in response for her request for provenance information for the Painting.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: August 12, 2008  
Montreal, Canada



Barry Sheffer

# **Exhibit A**

\*\*\* BY FAX \*\*\*

Barry Shefner  
470 Stanstead Ave  
Mount Royal, Quebec Canada H3R 1X6  
Tel 514-737-7791 Fax 514 648-4604

Montreal, June 22nd, 2007

Elizabeth A. Croog, Secretary and General Counsel,  
Office of the Deputy Director  
National Gallery Art  
2000B South Club Drive  
Landover, MD 20785

**RE: Chaim Soutine "Piece of Beef" Oil and Canvas Assession #2004.126.1  
(the "Work")**

Dear Ms. Croog,

Further to our phone conversation this afternoon, I am an executor of the estate of Lorette Jolles Shefner/Szefner.

The information/ documentation that we would require from you is as follows:

- The name of the actual seller of the work to the National Gallery of Art/Chester Dale Fund [NGA].
- By whom and when contact with the NGA was first established by the seller or their agent.
- The total amount paid for the work by the National Gallery of Art/Chester Dale Fund and to whom payment was effected.
- The Contract of Sale and any documents showing specific terms and conditions, including seller's warranties and representations of condition, authenticity, provenance and title.
- Who represented the seller (attorney and other).
- Bill of sale and any other documentation showing the transfer of title and the painting.
- Shipping documents, including bills of lading and receipts.
- Insurance certificates and policies (such insuring the work during shipping and thereafter, such as at the NGA);

As discussed, I am also attaching for your reference the Provenance for the painting as per the Catalogue Raisonee by Tuchman/Dunow/Perls Vol 1 P470 #99.

Sincerely,

  
Mr. Barry Shefner  
Executor for the Estate of Lorette Jolles Shefner/Szefner

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**Side of Beef**  
**Pièce de bœuf**  
**Rinderhälfte**

c. 1922-1923  
 Oil on canvas, 69,9 x 52,1 cm  
 (27 1/2 x 20 1/2 in.)  
 Signature, l.r. »Soutine«

**PROVENANCE**

*The Barnes Foundation, Merion Station,  
 Pennsylvania (1923 / - )*  
*Henri Bing, Paris*  
*Valentine Gallery, New York*  
*Mrs. Lloyd Bruce Westcott, Clinton,  
 New Jersey*  
*The Colin Collection, New York (by 1950 / - )*

**EXHIBITIONS**

Paris, Paul Guillaume, group, 1923. (?)  
 New York, Valentine Gallery,  
 February 3-22, 1936, no. 14. (?)  
 New York, Museum of Modern Art and  
 Cleveland Museum of Art, 1950-1951,  
 p. 112, listed; p. 68, comm.; p. 66, repr.  
 Florida, Palm Beach, Society of the Four  
 Arts, 1952, no. 15.  
 Chicago, Arts Club, 1956, no. 51.  
 New York, M. Knoedler and Co., »The  
 Colin Collection«, April 12-May 14,  
 1960, no. 82, repr.  
 London, Tate Gallery and Edinburgh Arts  
 Festival, 1963, no. 23; p. 21, comm.  
 New York, Marlborough Gallery, 1973,  
 no. 30, repr.  
 Münster, Westfälisches Landesmuseum  
 and Tübingen, London, 1981-1982,  
 no. 16; pp. 82, 84, comm. (Dunow);  
 pp. 108-109, comm. (Güse); fig. 49,  
 repr.; repr. color. [English ed.]  
 [Not exhibited in Lucerne]

**REFERENCES**

Sayre, A.H. *Art News*, February 8, 1936,  
 p. 5, comm. (?)  
 Szittyá, E. *Soutine et son temps*, 1955, p. 65,  
 fn. 2, comm.  
 Forge, A. *Soutine*, 1965, no. 20, comm.,  
 repr. color.  
 Courthion, P. *Soutine. Peintre du déchirant*,  
 1972, p. 73, comm.; p. 72, repr. color;  
 p. 242C, repr.  
 Cogniat, R. *Soutine*, 1973, p. 34, repr. color.  
 Werner, A. *Chaim Soutine*, 1977, p. 48,  
 fig. 52, repr.  
 Exhibition catalogue. New York, Galleri  
 Bellman, 1983-1984, p. 23, comm. (Güse).  
 Güse, E.-G. *Die Kunst*, December 1983,  
 p. 837, no. 2, repr. color.  
 Exhibition catalogue. Milan, Galleria  
 Bergamini, 1987, repr.

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**Side of Beef and Calf's Head**  
**Bœuf et tête de veau**  
**Rinderhälfte und Kalbskopf**

c. 1923  
 Oil on canvas, 92,1 x 73 cm  
 (36 1/4 x 28 3/4 in.)  
 Signature, l.r. »C. Soutine«

**PROVENANCE**

*Paul Guillaume, Paris*  
*Mme. Jean Walter, Paris (- / 1963)*  
*Musée de l'Orangerie, Paris. Collection Jean  
 Walter et Paul Guillaume (1963 / - )*

**EXHIBITIONS**

Paris, Galerie Bernheim-Jeune, group,  
 1929. (?)  
 Venice, XXVI Biennial, 1952, no. 28.  
 Paris, Galerie Charpentier, 1959, no. 45.  
 London, Tate Gallery, 1963, no. 28;  
 pp. 21-22, comm.; pl. 18, repr.  
 Paris, Orangerie des Tuileries, group, 1966,  
 no. 131, comm., repr.  
 Paris, Musée Jacquemart-André,  
 »La Ruche et Montparnasse, 1902-  
 1930«, December 22, 1978-April 1, 1979,  
 no. 125, comm.  
 Münster, Westfälisches Landesmuseum,  
 1981-1982, no. 15; p. 44, comm.  
 (Sylvester); p. 84, comm. (Dunow);  
 pp. 108, 109, comm. (Güse); fig. 50;  
 repr. [English ed.] [Exhibited in  
 Münster only]  
 Musée de Chartres, 1989, no. 44, comm.,  
 repr. color.

**REFERENCES**

Arcangeli, F. *Paragone*, September 1952,  
 p. 63, comm.; pl. 30, repr.  
 Sylvester, D. *Art News*, October 1963,  
 pp. 23, 24, comm.; p. 25, no. 12, repr.  
 Exhibition catalogue. Paris, M. Knoedler  
 et Cie., »L'Héritage de Delacroix«,  
 June 1964, comm.  
 Forge, A. *Soutine*, 1965, no. 24, comm.,  
 repr. color.  
 Courthion, P. *Soutine. Peintre du déchirant*,  
 1972, p. 242A, repr.  
 Warnod, J. *La Ruche et Montparnasse*, 1978,  
 p. 99, repr.  
 Exhibition catalogue. New York, Galleri  
 Bellman, 1983-1984, p. 23, comm.  
 (Güse).  
 Musée de l'Orangerie, Paris. *Collection  
 Jean Walter et Paul Guillaume*, 1984,  
 (2 ed. 1987, 3 ed. 1990), no. 120, comm.,  
 repr. color.

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**Piece of Beef**  
**Le bœuf**  
**Rind**

c. 1923  
 Oil on canvas, 81,6 x 60 cm  
 (32 1/8 x 23 5/8 in.)  
 Signature, l.r. »Soutine«

**PROVENANCE**

*Paul Guillaume, Paris*  
*Jos. Hessel, Paris*  
*Duncan MacDonald*  
*Eardley Knollys, London (by 1945 / - )*  
*Alex Reid and Lefevre, Ltd., London*  
*Georges Keller, New York - Davos, Switz-*  
*land (by 1952 / 1973) [On extended*  
*to Kunstmuseum Bern, 1952-1973]*  
*Modarco Advisory Service, Geneva, Swi-*  
*land (December 1, 1973 / November*  
*Knoedler-Modarco, S.A., New York*  
*(November 1978 / October 1979)*  
*Cosmondia S.A., Geneva, Switzerland*  
*(October 1979 / - )*  
*Galerie Heyraud Bresson, Paris*  
*(- / April 1981)*  
*Daniel and Lorette Shefner, Quebec, Ca*  
*(April 1981 / - )*  
*Lorette Shefner, Quebec, Canada*

**AUCTIONS**

Paris, Palais Galliera, December 1, 197,  
 lot 50, repr. color.

**EXHIBITIONS**

London, Storrán Gallery, 1938, no. 11.  
 London, Lefevre Gallery, »School of F  
 (Picasso and his contemporaries)«,  
 May-June 1945, no. 41.  
 London, Gimpel Fils, 1947, no. 13.

**REFERENCES**

Exhibition catalogue. London, Tate  
 Gallery and Edinburgh Arts Festival  
 1963, p. 21, comm.  
 Courthion, P. *Soutine. Peintre du déchirant*,  
 1972, p. 238B, repr.